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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
SOHIEL OMAR KABIR, et al.,  
  
Defendants.

ED No. CR 12-00092(B)-VAP

GOVERNMENT'S POSITION REGARDING  
SENTENCING FOR DEFENDANT RALPH  
KENNETH DELEON

Hearing Date: February 23, 2015  
Hearing Time: 9:00 a.m.  
Place: Courtroom of the Honorable  
Virginia A. Phillips

The United States of America, by and through its undersigned counsel, hereby submits its position regarding sentencing for defendant Ralph Kenneth Deleon.

The government's position rests on the evidence admitted at trial, the jury's verdicts, the United States Probation Officer's Presentence Investigation Report ("PSR"), Revised PSR, First Addendum

1 to the PSR, sentencing recommendation letter, and revised sentencing  
2 recommendation letter, the attached declaration of Christopher D.  
3 Grigg and Exhibit A, the files and records in this case, and on such  
4 additional argument or evidence as the Court may allow.

5 Dated: February 9, 2015

Respectfully submitted,

6 STEPHANIE YONEKURA  
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7  
8 ROBERT E. DUGDALE  
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9  
10 /s/

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION AND SUMMARY OF THE GOVERNMENT'S RECOMMENDATION**

Defendant Ralph Kenneth Deleon ("Deleon") stands convicted of conspiring to provide material support to terrorists in violation of 18 U.S.C. § 2339A; conspiring to murder, kidnap, or maim overseas in violation of 18 U.S.C. § 956(a); and conspiring to kill officers and employees of the United States in violation of 18 U.S.C. §§ 1117 and 1114. Such federal crimes of terrorism are among the most serious offenses proscribed by law. Accordingly, Deleon and co-defendant Sohail Omar Kabir ("Kabir") face statutory maximum penalties and advisory guidelines sentences of life imprisonment.

Deleon's conduct was particularly egregious. Inspired by an extremist interpretation of Islam espoused by radical cleric Anwar Al-Awlaki and others that exalted over all else hatred and violence toward the United States, its allies, and other perceived enemies, Deleon chose to abandon his studies, his family, and his life in the United States to join Kabir overseas in order to seek out the Taliban and opportunities to fight and kill Americans and others. The trial evidence, including recordings of Deleon's own statements, showed that he wanted to join the ranks of the mujahideen and die as a martyr in order to obtain a jihadist version of heavenly paradise.

Deleon took multiple steps to prepare for violent jihad and, while Kabir relocated to Afghanistan, acted as the emir (leader) for a small group of southern California men, including Miguel Santana ("Santana"), Arifeen Gojali ("Gojali"), and a person who, unbeknownst to defendants, was a confidential human source ("CHS") for the Federal Bureau of Investigation ("FBI").

Through Deleon's initiative, the group engaged in physical

1 exercise, participated in paintball activities to simulate combat,  
2 and practiced firing assault weapons at firing ranges Deleon located.  
3 Deleon consulted a local imam about traveling to engage in violent  
4 jihad, coordinated travel plans with Kabir, and ultimately purchased  
5 tickets for the group to travel from Mexico to the Middle East to  
6 rendez vous with Kabir and carry out their plans.

7 During the plot, Deleon sought to recruit others to join the  
8 plans to fight and kill. As Deleon told Gojali in a recorded  
9 conversation, Deleon actively searched for potential new recruits,  
10 including while attending the defendants' mosque in Pomona. Exh.  
11 532; 8/27/14 RT PM Session 87-90.<sup>1</sup> Deleon was effective and  
12 personally radicalized and recruited Gojali. As Gojali testified and  
13 Deleon admitted to the FBI, Deleon introduced Gojali to extremist  
14 jihadi doctrine, including Al-Awlaki's teachings, and convinced him  
15 to abandon his infant daughter and his life in the United States to  
16 join Deleon's plan to travel overseas to fight. See Exh. 527;  
17 8/27/14 RT AM Session 72-74, 78-87; 8/27/14 RT PM Session 30.

18 Deleon's conduct stands apart from that of his co-conspirators  
19 and is particularly insidious and troubling. So too is his  
20 willingness to take initiative in other aspects of the plot,  
21 including recruiting a driver to transport the conspirators on the  
22 first leg of their journey. Absent Deleon's leadership and resolve,  
23 he, Gojali, and Santana might not have been arrested heading for the  
24 border with Mexico en route to the Middle East on November 16, 2012.

25 The importance--and consequences--of Deleon's role in this case  
26

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27 <sup>1</sup> Exhibit numbers refer to exhibits admitted at trial. The  
28 government filed an appendix of recording transcripts in support of  
its oppositions to defendants' new trial motions. See CR 729.

1 cannot be overstated and his sentence must hold him accountable for  
2 it. The seriousness of his crimes and the need to promote respect  
3 for the law and afford just punishment necessitate a substantial term  
4 of incarceration. So too does the need to protect the public because  
5 Deleon remains a danger. His murderous intent was driven by an  
6 extremist ideology ostensibly rooted in his religious beliefs such  
7 that his willingness to take up arms remains a grave concern. Deleon  
8 was intent on reaching the battlefield and was only foiled in this  
9 case by the actions of the FBI.

10 Lastly, to the extent that others may sympathize with the  
11 defendants' extremist views or hold real or perceived grievances of  
12 their own, this case is a compelling example of the need to impose a  
13 substantial sentence in order to deter individuals from embracing  
14 violence and, as Deleon did here, recruiting others to do so.

15 Accordingly, the government agrees with the Probation Officer  
16 and recommends that the Court sentence Deleon to 35 years  
17 imprisonment. This term is well below the statutory maximum and the  
18 Guidelines range (both of which are life imprisonment) and is  
19 sufficient but no greater than necessary to comply with the mandate  
20 of 18 U.S.C. § 3553(a).

## 21 **II. THE OFFENSE CONDUCT**

22 The government agrees with, and requests that the Court adopt,  
23 as a summary of the facts in this case, the statement of offense  
24 conduct set forth in the United States Probation Officer's Revised  
25 Presentence Investigation Report ("R-PSR"). See R-PSR ¶¶ 7-20. The  
26 full scope of defendants' conduct is set forth in pre-trial filings  
27 and the evidence admitted at trial and is partially recounted here.

28 In approximately August 2010, Kabir influenced Deleon and

1 Santana to convert to Islam and introduced them to violent jihadist  
2 doctrine, including the teachings of Al-Qa'ida spokesman Anwar Al-  
3 Awlaki. Deleon and Santana planned to go overseas to fight ever  
4 since they were converted to Islam by Kabir. See 8/27/14 RT PM  
5 Session 8-9; Exhs. 580, 603. Deleon admitted to the FBI that Kabir  
6 introduced him and Santana to Islam, that the group trusted Kabir,  
7 and that the idea for joining the Taliban and Al-Qa'ida was Kabir's.  
8 Deleon 302 at 3-4. Deleon also admitted that the group's plan became  
9 possible when Kabir left (Kabir left for Germany in December 2011).  
10 Id.; see 8/26/14 RT AM Session 96-100; Exhs. 694, 696.

11 Gojali, whom Deleon radicalized and recruited into the plot in  
12 approximately September 2012 (8/26/14 RT AM Session 21; 8/27/14 AM  
13 Session RT 82-88) testified that he first met Kabir, Deleon, and  
14 Santana at their local mosque (8/27/14 RT AM Session 70). During one  
15 of Gojali's first interactions with Deleon, Deleon brought out his  
16 laptop and showed him a photograph of Al-Awlaki firing an AK-47 in  
17 the desert. 8/27/14 RT AM Session 73. Before Deleon showed Gojali  
18 the photo, Gojali had never before seen Al-Awlaki or a copy of Al-  
19 Qa'ida's Inspire magazine, from which the photo came. Id. at 73, 80.

20 Deleon and Santana first met the CHS in early 2012. 9/2/14 RT  
21 AM Session 55. Soon thereafter, the FBI, through the CHS and later  
22 through the use of recording devices in an apartment, began recording  
23 the defendants in numerous conversations. In one recorded  
24 conversation with Gojali, Deleon stated Kabir had been planning jihad  
25 for years and that he, Deleon, had been scouting for potential  
26 recruits at their mosque, where he developed four candidates,  
27 including the CHS, Gojali, and Badal Afman (aka "ABD," whom Deleon  
28 later persuaded to drive the conspirators to Mexico). Exhs. 532,

1 561; see 8/27/14 RT AM Session 87-88; 8/13/14 RT AM Session 33, 37.  
2 In Deleon's words, he scouted and sought to recruit "[e]veryone!  
3 Everyone! Everyone!" Exh. 532.

4 Deleon first revealed his intentions to the CHS during a road  
5 trip to Las Vegas in May 2012, when, using coded language that he,  
6 Santana, and Kabir previously adopted, he told the CHS about his plan  
7 to go overseas to fight. 8/27/14 RT AM Session 88; 9/2/14 RT 57;  
8 Exhs. 588-91. Deleon explained that Kabir was then in Germany en  
9 route to Afghanistan, where Deleon and Santana intended to go to join  
10 Kabir. Exhs. 588-91; see 8/26/14 RT AM Session 21.

11 Deleon also introduced the CHS to Al-Awlaki's teachings and  
12 routinely espoused jihadist doctrine when talking to the CHS and  
13 others. Deleon and Santana collected Al-Awlaki lectures, recordings  
14 of which Deleon often played from his laptop computer while riding in  
15 the CHS's car. See Exhs. 569, 570, 575, 577, 578, 584, 598, 688,  
16 688A-F, 689, 689A-C; 9/2/14 RT 96-105, 112-13. Moreover, Deleon gave  
17 copies of the Al-Awlaki materials to the CHS in the form of a USB  
18 thumb-drive (Exhs. 91, 91A, 92, 92A; 8/20/14 RT AM Session 95-99;  
19 8/20/14 RT PM Session 5-16; 9/2/14 RT 96-105, 112-13) and admitted to  
20 the FBI that he did so (8/26/14 RT AM Session 23). Like Gojali, the  
21 CHS had never heard Al-Awlaki's lectures before Deleon played them or  
22 provided the thumb-drive. 9/2/14 RT 105.<sup>2</sup>

23 Considerable evidence, including recordings of Deleon's own  
24 statements, shows that Deleon subscribed wholeheartedly to the  
25 extremist ideology of Al-Awlaki and other terrorist figures who

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26 <sup>2</sup> Gojali testified that Deleon's thumb-drive contained lectures  
27 about fighting, jihad and "a whole bunch of lectures with Anwar Al-  
28 Awlaki," and that Deleon had given it out to several other people at  
the mosque. 8/27/14 RT AM Session 73-74.

1 espoused violent jihad against the West, particularly against the  
2 United States, as a means to retaliate against the United States for  
3 its perceived treatment of Muslims. Deleon admitted that he listened  
4 to Al-Awlaki's lectures, including the more radical lectures, and  
5 that he liked Al-Awlaki's passion. 8/26/14 RT AM Session 23.

6 Deleon regularly discussed Al-Awlaki's teachings throughout the  
7 conspiracy. He knew Al-Awlaki's lectures well, often referring to  
8 them by name, including "44 Ways to Support Fisabilillah," "Reviver,"  
9 "State of the Ummah," "The Dust Will Never Settle Down," "Battle of  
10 the Hearts and Minds," and others. Exh. 570.<sup>3</sup> As Gojali testified,  
11 Deleon looked up to both Al-Awlaki and Al-Qa'ida founder Usama Bin  
12 Laden (as well as to Kabir). 8/27/14 RT AM Session 90-91. During a  
13 recorded conversation, Deleon told Gojali that he believed Bin Laden  
14 was the greatest shahid (martyr) of all, referring to Al-Qa'ida's war  
15 against, and Bin Laden's death at the hands of, the United States.  
16 See Exh. 530; 8/27/14 RT AM Session 75-77, 90-91. When Gojali  
17 expressed reservations about traveling for jihad, Deleon persuaded  
18 him by playing a passage from an Al-Awlaki lecture advising would-be  
19 jihadists who had children not to worry about their families because  
20 God would take care of them. 8/27/14 RT AM Session 81-82.

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21  
22 <sup>3</sup> In a recorded conversation, Deleon stated that he downloaded  
23 almost all of the lectures available on a website that disseminates  
24 jihadi propaganda (kalumallah.com) and that he had more than 300  
25 hours of lectures. Exh. 578. Expert witness Evan Kohlmann testified  
26 extensively about Al-Awlaki, his lectures, and their influence as  
27 violent jihadist propaganda. Among other things, Kohlmann explained  
28 that, according to Al-Awlaki, it would be difficult to engage in  
jihad without first making hijrah (emigrating) to Muslim lands and  
that the concepts are closely intertwined and cannot be separated.  
9/9/14 RT AM Session 34-35. That principle applies directly to this  
case. As defense expert Dr. Marc Sageman acknowledged, Al-Awlaki has  
factored in almost every plot resulting in terrorism charges since  
approximately 2008. 9/10/14 RT AM Session 85-87.



1 In addition to the thumb-drive Deleon gave to the CHS, Deleon  
2 possessed an extensive collection of jihadist propaganda and Al-  
3 Awlaki materials, including lectures and photos of terrorists  
4 inspired or tasked by Al-Awlaki such as Nidal Hassan (the Fort Hood  
5 shooter) and Umar Farouk Abdulmutallab (the "Underwear Bomber"), on  
6 his laptop. See Exh. 504; 8/19/14 RT AM Session 66-83; 8/20/14 RT AM  
7 Session 77-79; 9/5/14 RT AM Session 100-104.

8 Deleon's online activities mirrored his immersion in radical  
9 jihadist doctrine.<sup>4</sup> For example, Al-Awlaki's lecture "Allah Is  
10 Preparing Us For Victory" can be heard in the video "The Light 46:  
11 The Black Flags of Khorasan" (Exh. 215), which Deleon posted on  
12 Santana's Tumblr webpage in December 2011 (Exh. 486) and also  
13 appeared on Kabir's Facebook page in December 2011 (Exh. 712).  
14 8/20/14 RT AM Session 61-64; 9/9/14 RT AM Session 35-42. In the  
15 video, jihadist preachers discuss their vision of the return of a  
16 great military leader under the jihadist battle standard (the black  
17 flag), the anticipated conquest of the Middle East, and the retaking  
18 of Jerusalem. Exh. 215. The video includes narration by Al-Awlaki  
19 from his lecture "Allah is Preparing Us For Victory," describing the  
20 locations where jihads are being fought (Afghanistan, Iraq,  
21 Palestine, al-Sham [greater Syria, aka the Levant], and Yemen) and  
22 the modern culture of martyrdom that originated in Palestine wherein  
23 dead fighters were not mourned but celebrated as in a wedding

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24  
25 <sup>4</sup> Deleon's adherence to violent extremist views appeared to  
26 continue even during trial in September 2014, when custody officials  
27 found that he had marked his cell multiple times with the word  
28 "ISIS," referring to the "Islamic State," an extremely violent  
terrorist army operating under the black flag that has repeatedly  
beheaded Americans and other foreigners that it captured during  
combat operations in Syria and elsewhere. See R-PSR ¶ 61.

1 celebration. 9/9/14 RT AM Session 42. Throughout the conspiracy,  
2 Deleon, Santana, and Kabir continued to disseminate and discuss  
3 extremist jihadist propaganda advocating violence and warfare,  
4 including Al-Awlaki's works, postings relating to Sheikh Abdullah  
5 Azzam (the "godfather" of contemporary violent jihad; see 9/5/14 RT  
6 PM Session 69-72), postings relating to Bin Laden, Al-Qa'ida videos,  
7 multiple issues of Al-Qa'ida's Inspire Magazine, Taliban news updates  
8 on the war in Afghanistan, and many similar items. See, e.g., Exhs.  
9 200, 203, 207, 219, 224, 234, 256, 340, 374, 386, 395, 396, 398, 400,  
10 403, 404, 414, 464, 493, 496, 713, 6002, 6003; 9/5/14 RT PM Session  
11 69-72, 79-80.

12 Deleon admitted to the FBI that his intent was to leave the  
13 United States and to take initiative and that he was prepared to die  
14 for his beliefs and did not want it to be just talk. 8/26/14 RT AM  
15 Session 23-25. In fact, Deleon did take the initiative, particularly  
16 after Kabir informed him that Kabir made arrangements for the men to  
17 join him in Afghanistan. On August 26, 2012, Kabir sent Santana an  
18 email saying "everything's set up for you guys out here. Now you  
19 just gotta come." 8/20/14 RT PM Session 65-66; Exh. 429. On August  
20 31, 2012, Deleon, Santana, and the CHS participated in the "Students"  
21 and "Professors" Skype conversation with Kabir, who was then in  
22 Kabul, during which Kabir reported that he had contacted the Taliban  
23 and made arrangements for Deleon and company to join him. Exh. 621.

24 Thereafter, Deleon, acting as emir (leader) took several steps  
25 on behalf of the group. For example, Deleon researched and selected  
26 the shooting ranges at which the group later trained, including on  
27 one occasion when Deleon specifically did not invite the CHS. See,  
28 e.g., Exh. 95-98, 631. Deleon decided to obtain a tuition refund and

1 sell his car in order to fund their trip. See, e.g., Exhs. 519, 550.  
2 Deleon also consulted Kabir about obtaining passports and visas (see,  
3 e.g., Exhs. 367, 540, 545, 547, 677, 678; 8/26/14 RT AM Session 31-  
4 33, 54-55) and later helped Gojali obtain a U.S. passport under false  
5 pretenses. On several occasions, including on October 18, 2012,  
6 Deleon informed the group that Kabir stated that physical preparation  
7 involving squats was necessary for building lower body and leg  
8 strength. Exh. 524. As Gojali testified, the group (excluding the  
9 CHS) began physical preparations by hiking, running, and going to the  
10 gym to work on their legs. 8/27/14 RT PM Session 10.

11 Deleon also personally recruited Gojali to the plot. As Gojali  
12 testified and as Deleon admitted to the FBI, Deleon introduced Gojali  
13 to extremist jihadi doctrine, including Al-Awlaki's teachings, and  
14 convinced him to abandon his infant daughter and his life in the  
15 United States to join Deleon's plan to fight and kill. See Exh. 527;  
16 8/27/14 RT AM Session 72-74, 78-87; 8/27/14 RT PM Session 30.

17 As the defendants' preparations continued, Deleon never wavered.  
18 Both he and Santana agreed that violent jihad (which they referred to  
19 as jihad fisabilillah) was mandatory. Exh. 571. On multiple  
20 occasions, the CHS attempted to offer Deleon alternatives to violent  
21 jihad, but Deleon expressly rejected those offers and remained  
22 committed to taking up arms, even dedicating 99.9% of his prayers to  
23 become a martyr.<sup>5</sup> See, e.g., Exhs. 595, 605, 635, 636, 637; 9/2/14  
24 RT 79. When asked about how he would feel about killing someone,  
25

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26 <sup>5</sup> In rejecting one of the CHS's suggestions that he obtain a job  
27 in marketing, Deleon laughed and said "I studied I did all this  
28 homework and I am just picking up an AK. . . . It is the truth. I  
don't care I'll plant a C-4 on me, whatever Allah . . . . That's it  
man." Exh. 605.

1 Deleon answered "man, I, I am so ready." Exh. 596. In another  
2 conversation about the group's plans for jihad, Deleon explained his  
3 view that they "might do time in hellfire" if they did not seek to  
4 join the fighting. Exh. 602. In October 2012, Deleon, when  
5 discussing his views on suicide attacks, explained that suicide  
6 bombings were, in his view, justified because "when you press the  
7 button, you're trying to kill as many people as you can," and that  
8 such an act was not, in fact, suicide because "my intention is to  
9 give my life for Allah." Exh. 515. Similarly, as Deleon continued  
10 to indoctrinate Gojali, Deleon instructed Gojali that if he  
11 encountered female U.S. army personnel, he should kill them. See  
12 Exh. 531. On October 31, 2012, Deleon told a friend that he wanted  
13 to die in a drone strike. Exh. 534. A week later, as the  
14 defendants' departure date approached, when Kabir informed Deleon  
15 that Kabir was going on a one-way suicide mission involving  
16 explosives, Deleon said he would pray for Kabir and that he, Deleon,  
17 was "down with that," meaning would do the same thing. Exh. 548.

18 Deleon was resolute and continued to move the group forward. As  
19 he admitted to the FBI, it was he who bought plane tickets for the  
20 group to fly to the Middle East. 8/26/14 RT AM Session 26-27. He  
21 then recruited ABD to drive the group to Mexico on the first leg of  
22 their journey to engage in violent jihad. See, e.g., Exh. 559  
23 (recording of Afman discussing driving the men to the border).

### 24 **III. SENTENCING ANALYSIS**

25 When fashioning a sentence, the court must consider the  
26 statutory factors set forth in 18 U.S.C. § 3553(a) in light of the  
27 "totality of circumstances" relating to the crime and the defendant.  
28 United States v. Reyes, 764 F.3d 1184, 1198 (9th Cir. 2014) (quoting

1 United States v. Carty, 520 F.3d 984, 993 (9th Cir. 2008) (en banc)).  
 2 The court must begin by correctly calculating the applicable  
 3 sentencing range under the United States Sentencing Guidelines,  
 4 which, although advisory, are "the starting point and the initial  
 5 benchmark and are to be kept in mind throughout the process." Carty,  
 6 520 F.3d at 991 (internal quotation and citation omitted). After  
 7 considering the parties' arguments, the court must then determine  
 8 whether a departure or variance is warranted and, if so, to what  
 9 extent. Id.

10 As discussed below, no departure or variance is warranted here  
 11 other than the government's recommended term of 420 months, which is  
 12 no greater than necessary to reflect the seriousness of Deleon's  
 13 offenses, promote respect for the law, provide just punishment,  
 14 afford adequate deterrence, and protect the public.

#### 15 **A. The Guidelines Calculations**

16 The government agrees with, and requests that the Court adopt,  
 17 the USPO's guidelines calculations as stated in its first PSR, see  
 18 PSR ¶¶ 24-40, which include the following base offense levels:

19 Count One, 18 U.S.C. § 2339A: Level 38 USSG §§ 2X2.1, 2A1.2

20 Count Three, 18 U.S.C. § 956: Level 33 USSG § 2A1.5

21 Count Five, 18 U.S.C. § 1117: Level 33 USSG § 2A1.5

22 Because the defendants here intended to kill, and provide  
 23 material support to the killing of, American and allied forces, the  
 24 government does not object to the USPO's recommended grouping of the  
 25 offenses in this case. See PSR ¶ 25, R-PSR ¶ 25.<sup>6</sup> Accordingly,  
 26

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27 <sup>6</sup> Because facts differ from case to case, such grouping is not  
 28 necessarily appropriate in any other case involving similar counts of  
 conviction.

1 under USSG § 3D1.3(a) the base offense level is derived from Count  
2 One. See PSR ¶ 26, R-PSR 26.

3 The USPO properly assesses that, given Deleon's role as an  
4 organizer and leader in the defendants' plot, discussed above and  
5 extensively at trial, a two-level increase is warranted under USSG  
6 § 3B1.2(c). See PSR ¶¶ 33-35, R-PSR ¶¶ 32-35.

7 Lastly, as discussed in more detail below, the USPO correctly  
8 recognizes that a 12-level increase under USSG § 3A1.4 applies in  
9 this case. See PSR ¶ 32, R-PSR ¶ 31. As a result, the USPO  
10 initially found that the adjusted total adjusted offense level is 52.  
11 See PSR ¶¶ 30, 32, 35, 37. The USPO later found in the revised PSR  
12 that the total adjusted offense level is 47. R-PSR ¶¶ 29, 37.<sup>7</sup>  
13 Although paragraph 29 of the revised PSR correctly recites the  
14 guidelines provisions applicable to the underlying predicate  
15 offenses, including the fact that USSG § 2A1.2 is among the  
16 provisions applicable to a violation § 2332(a) (one of the predicates  
17 here), the paragraph nonetheless concludes that the lesser provision,  
18 USSG § 2A1.5, applies. See R-PSR ¶ 29. The revised PSR thus does  
19 not account for the § 2332(a) predicate or explain why not.

20 The revised approach is inappropriate. If the § 2339A  
21 conspiracy charged in count 1 had as its only predicate a violation  
22 of § 2332(a) (i.e., a conspiracy to provide material support in  
23 furtherance of killing), USSG § 2A1.2 would apply. The fact that  
24 § 2332(a) is not the only predicate here does not justify ignoring it  
25 altogether, especially when it remains the most serious.

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26  
27 <sup>7</sup> It appears that paragraph 26 of the revised PSR, which still  
28 concludes the total offense level is 52, was overlooked in the  
revision.

1 In any event, the government agrees, and requests that the Court  
 2 find, that the total adjusted offense level is the same regardless of  
 3 whether § 2A1.2 or § 2A1.5 controls. Under either provision, the  
 4 resulting offense level is higher than the highest level in the  
 5 sentencing table (level 43) (see PSR ¶¶ 37-40; R-PSR ¶¶ 37-40) and  
 6 thus is artificially reduced to level 43. See USSG Ch. 5, Part A,  
 7 comment. (n.2); PSR ¶ 40. By operation of USSG § 3A1.4, Deleon's  
 8 criminal history category is VI. See R-PSR at 4, R-PSR ¶ 46.  
 9 Accordingly, Deleon's guidelines sentencing range is life.<sup>8</sup>

10 1. The Terrorism Enhancement Applies To All Counts

11 The government agrees with the probation officer that the  
 12 terrorism enhancement in USSG § 3A1.4 applies in this case, see R-PSR  
 13 ¶ 31, not only to the offense resulting in the most serious  
 14 guidelines range, but to all offenses. Section 3A1.4 applies to  
 15 felonies that involved, or were intended to promote, a federal crime  
 16 of terrorism. USSG § 3A1.4. For purposes of the enhancement, a  
 17 "federal crime of terrorism" means: (a) an offense calculated to  
 18 influence or affect the conduct of government by intimidation or  
 19 coercion, or to retaliate against government conduct; and (b) is  
 20 listed in 18 U.S.C. § 2332b(g)(5). USSG § 3A1.4, comment. (n.1); 18  
 21 U.S.C. § 2332b(g)(5).

22 a. *Each Count Involved Or Was Intended to Promote A*  
 23 *§ 2332b(g)(5) Offense*

24 Each of Deleon's counts of conviction involved or was intended  
 25 to promote terrorism offenses enumerated in § 2332b(g)(5), namely,  
 26 violations of § 2339A, conspiracy to provide material support (Count

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27 <sup>8</sup> The range would be the same even if Deleon's criminal history  
 28 category was category I.

One); § 956(a), conspiracy to murder overseas (Count Three); and § 1117, conspiracy to murder officers and employees of the United States (the crime Deleon conspired to commit in Count 5). See 18 U.S.C. § 2332b(g)(5).

*b. Each Offense Was Intended to Influence, Affect, Or Retaliate Against Government Conduct*

To satisfy the first prong of the "federal crime of terrorism" definition, the evidence need only prove<sup>9</sup> that the offense was calculated to influence or affect government conduct by intimidation or coercion, or to retaliate against government conduct. Application of § 3A1.4(a) does not require a finding that the defendant was personally motivated by a desire to influence or affect the conduct of government, or to retaliate against government conduct. See United States v. Awan, 607 F.3d 306, 316-318 (2d Cir. 2010) (the government need not show defendant was personally motivated to

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<sup>9</sup> "The preponderance of evidence standard is generally the appropriate standard for factual findings used at sentencing." United States v. Felix, 561 F.3d 1036, 1045 (9th Cir. 2009). However, in the Ninth Circuit, "when a sentencing factor has an extremely disproportionate effect on the sentence relative to the offense of conviction, the government may have to prove the factor by clear and convincing evidence. Id. (internal quotation marks and citations omitted). The government recognizes that under current Ninth Circuit law, it must prove the application of USSG § 3A1.4 by clear and convincing evidence. See United States v. Tankersley, 537 F.3d 1100, 1106 & n.5 (9th Cir. 2008)(assuming, without deciding, that "clear and convincing" standard of proof applies to determination of facts underlying application of USSG § 3A1.4); United States v. Thurston, 2007 WL 1500176, \*19 (D. Or. 2007)(finding that "clear and convincing" standard of proof applies to determination of facts underlying application of USSG § 3A1.4). The government submits that it has done this. However, for purposes of preserving its position on appeal, and due to the circuit split on this issue, the government argues that the standard of proof for all sentencing factors should be proof by a preponderance of the evidence. See, e.g., United States v. Graham, 275 F.3d 490, 517 n.19 (6th Cir. 2001)(holding that preponderance of evidence standard of proof applies to determination of facts for application of USSG § 3A1.4).



1 influence government if it shows that he intended to promote a crime  
2 calculated to have such an effect); United States v. Jayyousi, 657  
3 F.3d 1085, 1114-15 (11th Cir. 2011) (holding that the first prong of  
4 USSG § 3A1.4(a) focuses on the "the intended outcome of the  
5 defendant['s] unlawful acts--i.e., what the activity was calculated  
6 to accomplish, not what the defendant['s] claimed motivation behind  
7 it was . . . . [d]efendant's motive 'is simply not relevant.'");  
8 accord United States v. El-Mezain, 664 F.3d 467, 571 (5th Cir. 2011)  
9 (citing with approval both Awan and Jayyousi); see also United States  
10 v. Chandia, 675 F.3d 329, 340-341 (4th Cir. 2012) (affirming  
11 application of terrorism adjustment where the court reasonably  
12 inferred that the defendant intended to advance the terrorist  
13 organization's purpose based on the defendant's knowledge about the  
14 terrorist organization).

15 Here, considerable evidence shows that Deleon subscribed  
16 wholeheartedly to the extremist ideology of Al-Awlaki and other  
17 terrorist leaders who espoused violent jihad against the West,  
18 particularly against the United States, as a means to retaliate  
19 against the United States for its perceived treatment of Muslims.  
20 Deleon looked up to both Al-Awlaki and Al-Qa'ida founder Usama Bin  
21 Laden (as well as to Kabir). 8/27/14 RT AM Session 90-91. For  
22 example, during a recorded conversation played at trial, Deleon told  
23 Gojali that he believed Al-Qa'ida founder Usama Bin Laden was the  
24 greatest shahid (martyr) of all, referring to Al-Qa'ida's conflict  
25 with, and Bin Laden's death at the hands of, the United States. See  
26 Exh. 530; 8/27/14 RT AM Session 75-77, 90-91. Deleon frequently  
27 invoked and discussed the teachings of Al-Awlaki, whose lectures (as  
28 well as information about Al-Awlaki disciples and terrorists Nidal

1 Hassan and Umar Farouk Abdulmutallab) he collected on his laptop  
2 computer, played during road trips, and referenced during discussions  
3 of jihad and the conflict with the United States. See, e.g., Exhs.  
4 486, 570, 572, 577, 584, 602, 606, 608, 612, 636, 640, 688, 688A-F,  
5 689, 689A-C, 690, 691, 691-1; 8/13/14 RT AM Session 90; 8/19/14 RT AM  
6 Session 73-82; 8/21/14 RT AM Session 77-79; 8/27/14 RT AM Session 73-  
7 74; 9/5/14 RT PM Session 100-03; 9/9/14 RT AM Session 35-45.

8 Deleon specifically sought to become a fighter in order to kill  
9 his perceived enemies, including American forces viewed as infidels  
10 occupying Muslim lands. In rejecting the CHS's suggested  
11 alternatives to violent jihad, Deleon remained committed to taking up  
12 arms and dedicated 99.9% of his prayers to becoming a martyr. See,  
13 e.g., Exhs. 595, 605, 635, 636, 637; 9/2/14 RT 79.<sup>10</sup>

14 At trial, Mr. Kohlmann testified extensively about the context  
15 of the jihadi movement that Deleon sought to join and the movement's  
16 antipathy toward the United States and its allies. 9/9/14 RT AM  
17 Session 21-24. That context leaves no doubt as to the intended  
18 effect of the defendants' conduct in this case.

19 The extensive propaganda circulated by the defendants including  
20 the teachings of key figures in the global jihadi movement such as  
21 Sheikh Abdullah Azzam, the godfather of contemporary violent jihad  
22 who taught that the United States is the enemy of the jihadi movement  
23 and should be fought. See, e.g., Exh. 386 (an image of Azzam posted  
24 by Deleon with the quote "Death is only but once, so let it be in the  
25

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26 <sup>10</sup> After his arrest, Deleon apparently also viewed the CHS as an  
27 enemy, as he reportedly asked a fellow inmate whether he would be  
28 acquitted if the CHS were killed. See attached Declaration of  
Christopher D. Grigg at ¶¶ 3-4, 6, and attached Exhibit A at 5.

1 path of Allah."); 9/5/14 RT PM Session 69-72.<sup>11</sup> Kohlmann also  
2 discussed the history of violent movements like the Taliban and Al-  
3 Qa'ida, in their efforts to fight against Soviet, and later American,  
4 occupation of the historically Muslim country of Afghanistan. 9/5/14  
5 RT PM Session 77-85. Kohlmann also noted that the United States  
6 military has remained in Afghanistan since the invasion of 2001 (id.  
7 at 84), about which Kabir posted (and Deleon liked) reporting of  
8 updates by the Taliban about its fight against the U.S. and others,  
9 (see, e.g., Exhs. 207 at 19 and 200 at 8).

10 Kohlmann explained that the invasion of Iraq by the United  
11 States and its allies in 2003 and 2004 lent credibility to jihadists'  
12 rhetoric and that they used images from the war, such as at Abu  
13 Ghraib, as recruiting tools to encourage individuals to fight.  
14 9/5/14 RT PM Session 27-29.<sup>12</sup> Further, Kohlmann testified that a  
15 video posted on Kabir's Facebook Page in January 2012, the Du'a of  
16 Sheikh Mohaisany, which Kabir labeled a "powerful prayer" and which  
17 Deleon liked, featured graphic images of the 9/11 attacks on the  
18 World Trade Center and photos of U.S. leaders with an audio recording  
19 of a prayer released soon after the invasion of Iraq literally  
20 calling for God to destroy the United States. 9/5/14 RT PM Session  
21 27; Exhs. 224, 493. The invasion of Iraq resulted in a wave of  
22 jihadi fighters going to the Middle East to join the fighting. Id.  
23 at 29. This is the movement that Deleon and his co-defendants  
24 planned to join.

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25 <sup>11</sup> In a recorded conversation, when discussing fighting enemies,  
26 presumably the West, Deleon paraphrased a quote published by Al-  
27 Qa'ida's media wing and said "No, we love death more than they love  
28 life." Exh. 643; see Exh. 394 (posted on Santana's Tumblr page).

<sup>12</sup> Dr. Sageman's testimony was similar. See 9/10/14 RT AM  
Session 66-70.

1       The doctrine of Deleon's biggest influence, Al-Awlaki, is  
2 particularly instructive. Al-Awlaki taught that, like his brothers  
3 in Al Qa'ida, he came to the conclusion that violent jihad is  
4 obligatory upon all Muslims. 9/9/14 RT AM Session 33-34; see Exh.  
5 234. Kohlmann also testified that Al-Awlaki posted materials  
6 condemning Muslims for voting in the American presidential election  
7 and ordered Muslims never to vote and instead to participate in  
8 violent jihad. 9/5/14 RT PM Session 98-100. According to Al-Awlaki,  
9 it would be difficult to engage in jihad without first making hijrah  
10 (emigrating) to Muslim lands and that the concepts are closely  
11 intertwined and cannot be separated. 9/9/14 RT AM Session 34-35.

12       Kohlmann testified about additional works by Al-Awlaki that  
13 appear in the defendants' social media and Deleon's digital devices,  
14 including a passage of an Al-Awlaki lecture that can be heard in the  
15 video "The Light 46: The Black Flags of Khorasan" (Exh. 215), which,  
16 as discussed above, both Deleon and Kabir posted online in December  
17 2011 (Exhs. 486, 712). 9/9/14 RT AM Session 35-42. Kohlmann also  
18 discussed another of Al-Awlaki's lectures appearing in the evidence,  
19 "The Battle of the Hearts and Minds," in which Al-Awlaki argues that  
20 violent jihad is an essential part of the Muslim faith. Id. at 43.

21       At trial defense expert Dr. Marc Sageman corroborated much of  
22 Kohlmann's testimony. Among other things, Dr. Sageman confirmed the  
23 jihadi movement's antipathy toward the West, including Bin Laden's  
24 and Al-Qa'ida's declarations of war against the United States.  
25 9/10/14 RT AM Session 66-70. According to Dr. Sageman, "the main  
26 objection" underlying Al-Qa'ida's calls for war against Americans was  
27 the United States' presence on Saudi soil, the land of the two  
28 holiest cities in Islam. Id. at 66. Dr. Sageman acknowledged that,

1 since the U.S. invasions of Afghanistan and Iraq, the Al-Qa'ida  
 2 movement had flourished. Id. at 70-71. According to Dr. Sageman,  
 3 neo-jihadis viewed the calls by Al-Qa'ida to fight off the American  
 4 occupiers in Afghanistan and Iraq as religiously obligatory calls to  
 5 jihad. 9/10/14 RT AM Session 89-90.

6 It was precisely this global jihadist movement's fight against  
 7 the United States and others that the defendants sought to join  
 8 here.<sup>13</sup> Their agreement to do so – and to fight and kill on the  
 9 battlefield – was undertaken in retaliation for the conduct of the  
 10 United States and its allies, specifically in occupying Muslim lands  
 11 in Afghanistan, Iraq, and elsewhere and the perceived oppression of  
 12 Muslims, and was intended to affect the government conduct by  
 13 attriting, demoralizing, and driving out the occupiers.

14 **B. A 420-Month Sentence Represents An Appropriate Variance**

15 The government's recommended sentence of 420 months dramatically  
 16 varies downward from the guidelines range of life, recognizing in  
 17 part the nature of the offenses and Deleon's history and  
 18 circumstances. The Probation Officer's recommendation does the same.  
 19 See Revised Rec. Letter at 6.<sup>14</sup> No further variance is appropriate.

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21 <sup>13</sup> To the extent that defendant has suggested before and during  
 22 trial that his motive was to defend through violence Muslims in  
 23 Muslim lands (so-called "defensive jihad"), it is his purpose, not  
 24 his motive that matters. Jayyousi, 657 F.3d at 1115. Where, as  
 25 here, "that purpose is to promote a terrorism crime, the enhancement  
 is triggered." Id. (quoting United States v. Mandhai, 375 F.3d  
 1243, 1248 (11th Cir. 2004)). The fact that defendant believed his  
 violent cause was righteous makes the application of § 3A1.4 and a  
 substantial sentence even more appropriate.

26 <sup>14</sup> To the extent that the USPO suggests that "Deleon's young age  
 27 at the time of the instant offense" is a factor favoring a reduced  
 sentence, see Revised Rec. Letter at 6, the government strongly  
 28 disagrees. There is nothing about Deleon's age that is so unusual to  
 distinguish this case from any other. If anything, given the need to  
 (footnote cont'd on next page)

1 Deleon may seek to minimize the seriousness of his offense in an  
2 effort to obtain a greater variance by arguing that his crimes were  
3 merely conspiracies and that no one succeeded in joining terrorists  
4 or terrorist groups and no one died. However, the defendants here  
5 failed to reach a battlefield despite their intent and plans, not  
6 because of them. Their plot was disrupted by the FBI, for whose  
7 actions defendants cannot be credited. See United States v. Abu Ali,  
8 528 F.3d 210, 264-65 (4th Cir. 2008) (lack of completion of the crime  
9 does not justify a lower sentence where it resulted from arrest, not  
10 a change of heart).

11 In any event, the court should reject the notion that Deleon  
12 should receive a lower sentence because he did not actually kill, or  
13 support someone else in successfully killing, another person. First,  
14 the Guidelines specifically exclude decreases for conspiracies  
15 involving or promoting federal crimes of terrorism. See id. (citing  
16 USSG § 2X1.1). Second, requiring an actual attack or death raises  
17 the bar too high by imposing consequences of completed offenses, not  
18 conspiracies such as those charged here. See id. (actual harm not  
19 required to impose a life sentence in a conspiracy case).

20 Lastly, Deleon may argue that he is a religious person and thus  
21 deserves a further downward variance. Piety, however, is not  
22 necessarily a virtue. United States v. Ressay, 679 F.3d 1069, 1097  
23 (9th Cir. 2012). "Ordinarily, religious faith is a positive  
24 influence, but [Deleon]'s extreme and warped beliefs motivated him to  
25 wage war on this country and to try to kill innocent people. That  
26 does not justify a lighter sentence, either." Id. If anything, the  
27 protect the public, Deleon's age weighs in favor of a longer  
28 sentence.

fact that he sought to spread his jihadist beliefs and encourage others to join the conspiracy justifies a tougher sentence than the government recommends here. Finally, any argument that Deleon deserves credit because he sought to wage war against U.S. and allied forces merely as a means to "defend" Muslims is bankrupt. A further downward variance would only condone, reward, and thus encourage such rationalizations for violence. The Court should decline to do so.

**C. The § 3553 Factors Support A Sentence Of At Least 35 years**

**1. Deleon's Offenses Were Extremely Serious**

The applicable Guidelines' range of life illustrates the seriousness of the offenses here. Terrorism offenses represent a particularly grave threat "because of the dangerousness of the crime and the difficulty of deterring and rehabilitating the criminal." United States v. Meskini, 319 F.3d 88, 92 (2d Cir. 2003). Thus, Congress and the Sentencing Commission were right to conclude "that terrorists and their supporters should be incapacitated for a longer period of time." Id. The Ninth Circuit, when reversing a substantively unreasonable sentence in a terrorism case for the second time, expressly shared a similar concern raised by the Eleventh Circuit:

[a]lthough recidivism ordinarily decreases with age, we have rejected this reasoning as a basis for a sentencing departure for certain classes of criminals, namely sex offenders. We also reject this reasoning here. "Terrorists, even those with no prior criminal behavior, are unique among criminals in the likelihood of recidivism, the difficulty of rehabilitation, and the need for incapacitation."

Ressam, 679 F.3d at 1090 (quoting Jayyousi, 657 F.3d at 1117) (emphasis added).

Deleon's crimes, particularly his role in recruiting others to

1 the plot to join terrorists and kill Americans and others, were  
2 extremely serious. He chose to embrace a violent ideology and, as he  
3 told the FBI, take initiative rather than merely talk. Deleon thus  
4 began preparing for war by, among other things, engaging in physical  
5 fitness, participating in paintball activities, and shooting assault  
6 rifles, including AK-47s, at firearms ranges Deleon specifically  
7 sought for that purpose.

8 That Deleon planned to fight and kill overseas rather conduct  
9 attacks within the United States is immaterial. To suggest otherwise  
10 wrongly implies that potential victims' lives are somehow worth less  
11 if they are located overseas. Further, the fact that Deleon's choice  
12 appears to conform with Al-Awlaki's teachings on the importance of  
13 emigrating to Muslim lands before joining a violent jihad against the  
14 West only reinforces the gravity of Deleon's conduct here.

15 In its revised recommendation letter, the USPO does not  
16 specifically address a significant aggravating factor that sets  
17 Deleon apart, namely his efforts to spread extremist jihadi  
18 propaganda and recruit others to his violent cause. Beyond simply  
19 taking the initiative to prepare on his own, Deleon took steps on  
20 behalf of the group, and, worse, personally recruited Gojali into the  
21 plot and sought to recruit others as well. Although Gojali is  
22 responsible for his own actions, Deleon in essence capitalized on the  
23 turmoil in Gojali's personal life regarding his infant daughter and  
24 her mother, and indoctrinated him with jihadist propaganda. But for  
25 Deleon's efforts, Gojali may never have joined the plot to travel  
26 overseas to fight and kill Americans.

27 Deleon's conduct starkly illustrates the Supreme Court's view  
28 that the crime of conspiracy is a "distinct evil" that



poses a "threat to the public" over and above the threat of the commission of the relevant substantive crime - both because the "[c]ombination in crime makes more likely the commission of [other] crimes" and because it "decreases the probability that the individuals involved will depart from their path of criminality." Callanan v. United States, 364 U.S. 587, 593-594, 81 S.Ct. 321, 5 L. Ed. 2d 312 (1961); see also United States v. Rabinowich, 238 U.S. 78, 88, 35 S.Ct. 682, 59 L.Ed. 1211 (1915) (conspiracy "sometimes quite outweigh[s], in injury to the public, the mere commission of the contemplated crime").

United States v. Jimenez-Recio, 537 U.S. 270, 274-75 (2003).

## 2. A Lengthy Sentence Is Required to Protect the Public and Deter Similar Crimes

As Dr. Sageman testified at trial, "the greatest threat facing America today comes from terrorist wanna-be[s] who gather information on the Internet and dare each other to take action." 9/10/14 RT AM Session 79, 108. This is particularly true as "those persons least likely to do harm individually are best able to do so collectively." Id. at 108. In the terrorism context, the need to deter adherents of neo-jihadi and other violent ideologies from dangerously crossing the line between radicalization (merely embracing extremist doctrine) and mobilization toward violent action, whether individually or in groups, is stronger than in almost any other type of criminal case. The need is particularly acute where a defendant like Deleon not only chooses violence for himself but seeks to recruit others to join him.

Deleon's radicalization while in his early twenties supports the government's recommendation. His strongly held beliefs, his willingness to go to war in furtherance of those beliefs, and the fact that law enforcement thwarted his efforts, raises a genuine concern that he will continue to pose a threat in the future. Failure to protect against that threat is among the factors that can render a sentence substantively unreasonable. See Ressam, 679 F.3d

1 at 1090 ("Concern for the threat that Ressam could pose to our nation  
2 is particularly powerful because under the district court's sentence,  
3 he would be only 51 years old upon his release from prison. Most  
4 people are sufficiently active and capable at age 51 to do  
5 considerable damage, if they are so inclined, and Ressam demonstrated  
6 strongly held beliefs and a willingness to attack American  
7 interests.").

8 As a leader and a recruiter, Deleon stands apart from Gojali and  
9 Santana, whose conduct was less serious. Moreover, to the extent  
10 that Deleon might argue that the recommended sentence is  
11 disproportionate to the maximum terms that Gojali and Santana face  
12 under their plea agreements, under Ninth Circuit law Deleon is not  
13 similarly situated because they pleaded guilty (and did so early in  
14 the case), while he did not. Ressam, 679 F.3d at 1094-95 (citing  
15 Meskini, 319 F.3d at 91) (district court erred in considering  
16 sentences of other defendants who were not similarly situated,  
17 including those of defendants who pleaded guilty). Similarly, Deleon  
18 may argue that the recommended sentence is higher than the term  
19 offered by the government after his proffer session in 2013.  
20 However, that offer was contingent upon Deleon's cooperation, which  
21 following his proffer interview, it appeared he was willing to give.  
22 Obviously, circumstances changed. Accordingly, the Court should not  
23 consider the previous offer either. Id. (rejecting argument that  
24 district court should consider offer made when defendant appeared  
25 willing to cooperate).

26 The 420 month sentence that the USPO and the government  
27 recommend properly accounts for the seriousness of Deleon's conduct,  
28 which distinguishes him from Gojali and Santana. Further, the

recommended term promotes respect for the law and protects the public from the continuing threat Deleon presents. Lastly, the recommended sentence affords a measure of deterrence to others contemplating turning to violence in the sake of their beliefs. A lesser sentence would reward Deleon's rationalizations for his behavior and undermine some if not all of the sentencing factors the Court must consider. According, the recommended term is sufficient but not greater than necessary to achieve the objectives set forth in 18 U.S.C. § 3553.

**IV. CONCLUSION**

For the foregoing reasons, the Court should sentence Deleon to a term of 420 months imprisonment followed by a lifetime of supervised release.

Dated: February 9, 2015

Respectfully submitted,

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Acting United States Attorney

ROBERT E. DUGDALE  
Assistant United States Attorney  
Chief, Criminal Division

/s/  
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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
SOHIEL OMAR KABIR, et al.,  
  
Defendants.

ED No. CR 12-00092(B)-VAP

DECLARATION OF CHRISTOPHER D.  
GRIGG IN SUPPORT OF GOVERNMENT'S  
POSITION REGARDING SENTENCING FOR  
DEFENDANT RALPH KENNETH DELEON;  
EXHIBIT A

Hearing Date: February 23, 2015  
Hearing Time: 9:00 a.m.  
Place: Courtroom of the Honorable  
Virginia A. Phillips

The United States of America, by and through its undersigned  
counsel, hereby submits the declaration of Christopher D. Grigg and  
attached Exhibit A in support of its position regarding sentencing  
for defendant Ralph Kenneth Deleon.

///

1 Dated: February 9, 2015

Respectfully submitted,

2 STEPHANIE YONEKURA  
Acting United States Attorney

3 ROBERT E. DUGDALE  
4 Assistant United States Attorney  
Chief, Criminal Division

5  
6 /s/

7 SUSAN J. DE WITT  
CHRISTOPHER D. GRIGG  
8 ALLEN W. CHIU  
Assistant United States Attorneys  
9 National Security Section

10 Attorneys for Plaintiff  
UNITED STATES OF AMERICA  
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**DECLARATION OF CHRISTOPHER D. GRIGG**

I, Christopher D. Grigg, hereby declare and state as follows:

1. I am an attorney for the government licensed to practice law in the State of California and am assigned to the matter of United States v. Sohail Omar Kabir, et al., ED CR No. 12-00092(B)-VAP. I make this declaration in support of the Government's Position Regarding Sentencing For Defendant Ralph Kenneth Deleon.

2. After his arrest on November 16, 2012 and subsequent order of detention in this case, defendant Deleon was held in custody for a period of time at the San Bernardino Central Detention Center ("CDC").

3. On or about January 2, 2012, a Riverside Police Department detective notified the Federal Bureau of Investigation ("FBI") that a CDC inmate had information relating to Deleon. Approximately two days later, the detective and an FBI agent interviewed the inmate. The inmate also provided documents to law enforcement, including copies of notes ("kites") that Deleon had passed to the inmate while in custody and a handwritten statement by the inmate describing his interactions with Deleon. See FBI Report Dated January 7, 2013, produced in discovery at Bates Number USA0040122.

4. The documents obtained from the inmate appear to corroborate the inmate's reported contact with Deleon: the kites appeared to be written in Deleon's handwriting while the statement contained factual details about Deleon and this case that were not public. The United States produced discovery to defense counsel in this case, including, among other things, copies of a report of the inmate interview, the kites Deleon passed to the inmate, and the inmate's handwritten statement. See, e.g., Discovery Materials Bates

1 numbered USA0040122 to USA0040133.

2 5. While awaiting trial in this case, Deleon was later  
3 transferred from CDC to the Metropolitan Detention Center and  
4 thereafter had no further reported contact with the inmate, who  
5 remained housed at CDC.

6 6. A true and correct copy of the inmate's handwritten  
7 statement is attached to the government's sentencing position  
8 regarding Deleon and to this declaration as Exhibit A. At page 5 of  
9 the statement, the inmate writes that Deleon asked whether he,  
10 Deleon, would "be acquitted" if the "informant," referring to the  
11 confidential human source in this case, "were to be "killed.'"

12 I declare, under penalty of perjury, that the foregoing is true  
13 and correct. Executed February 8, 2015 at Los Angeles, California.  
14

15 \_\_\_\_\_/s/\_\_\_\_\_  
16 Christopher D. Grigg  
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# EXHIBIT A



(1)

SINCE IVE BEEN HOUSED IN CDCIADS-5 RALPH DELTON HAS BEEN TRYING TO CONVERT ME TO ISLAM. I FEEL HE IS A DANGER TO THE UNITED STATES OF AMERICA. HE HAS TOLD ME THAT ALLAH ALONE WILL SAVE HIM BUT HE'S ALSO REFERRED TO MUJHADEEN, JIHAD AND SCRIPTURE PASSAGES FROM HIS QUR'AN. HE'S ALSO TRIED TO RECRUIT ME AND OTHERS TO TURN OUR BACKS ON OUR NATION WITH VIOLENCE AND HATEFUL. HE'S ALSO STATED THAT HE WAS GOING TO SELL ALL HIS WORLDLY BELONGINGS TO OBTAIN PASSPORTS FOR HIS "MUJHADEEN" BROTHERS OF 12,000 TO FIGHT AGAINST THE UNITED STATES AND ISRAEL TO DEFEAT THE "ANTI CHRIST" AS HE CALLS THE U.S. HE STATED ITS PROPHECIZED THAT 12,000 MUJHADEEN WILL DEFEAT THE U.S AND ITS ALLIES IN THE "ICEY MOUNTAINS WITH THE BLACK FLAG" WHICH HE LATER SAID WAS REFERRING TO PAKISTAN AND THE TALIBAN. HE ALSO STATED HE HAD BEEN RECEIVING TRAINING IN A



(2)

DEADLY MUSLIM MARTIAL ART CALLED "SELOT", AND WAS TO OBTAIN MORE TRAINING ONCE HE ARRIVED IN PAKISTAN BY HIS MENTOR OMAR SOHIL. HE AND TWO OTHERS WERE TO ENTER MEXICO AND FLY TO TURKEY AND WAIT FOR RALPH DELLOU'S UNCLE WHO IS A MUSLIM LIVING IN SAUDI ARABIA TO SUPPLY MONEY AND ASSISTANCE TO AL QADA FOR ISLAMIC JIHAD PURPOSES. RALPH DELLOU WAS EXPLAINING STRATEGIC WAYS OF WINNING THE WAR AGAINST "THE UNBELIEVERS" AS HE REFERS TO ANYONE NON-MUSLIM. HIS WAY OF WINNING THE WAR IS TO COMMIT ISLAMIC JIHAD OR OBTAIN WEAPONS OF MASS DESTRUCTION. ISLAMIC JIHAD HE SAID WOULD BE DONE AT MILITARY POST ALL OVER THE WORLD, UNITED STATES, GERMANY, THE PHILIPPINES, AS WELL AS THE MIDDLE EAST. HE ALSO STATED HE WOULD KILL AND MURDER IN THE NAME OF ALLAH AND JIHAD MEANS



(3)

"SACRIFICE," IN WHICH HE WON'T HAVE TO WAIT TILL THE DAY OF JUDGEMENT TO ENTER HEAVEN WHICH HE DESCRIBES AS HIS OWN PALACE IN THE UNIVERSE WITH 300 ROOMS WITH 100 WOMEN IN EACH ROOM THAT ARE HIS. HE ALSO STATED HE WOULD BE DOING DRUGS IN HEAVEN AS WELL.

WHEN I ASKED HIM ABOUT HIS LOVED ONES HE SAID NO ONE WILL FEEL CONNECTED ON THE DAY OF JUDGEMENT AND ALL NON BELIEVERS ARE GOING TO "HELL FIRE." HE'S ALSO STATED THE MOSQUE IN POMONA IS WHERE HE WAS DIRECTED TO BY OMAR SOHIL AND ITS A SPECIAL MOSQUE WHERE HE WAS TRAINING IN THE MARTIAL ART SEVOT WHICH ACCORDING TO HIM IS BANNED IN THE UFC BECAUSE ITS SO "DEADLY" AND CAN "KILL" MULTIPLE ENEMIES AT A TIME. HE HAS ALSO RECRUITED OTHERS IN TO "HIS" ISLAMIC



(A)

CULT AS WELL AS HIS CO-DEFEND-  
ANTS. ONE OF THESE RECRUITS  
WAS IN CELL TAD5-1 BY THE  
MONIKER "SCRAPPY". HE WAS  
ALSO TEACHING "SCRAPPY"  
SELOT.

RALPH DELEON PREYS  
ON PEOPLE HE DENIES AS WEAK  
MINDED INDIVIDUALS, AS WELL  
AS THE FAITHLESS. HE ALSO  
REFERS TO VIOLENT PASSAGES  
IN HIS QURAN IN WHICH HE HAS  
TRIED TO HAVE ME READ ON  
MULTIPLE OCCASSIONS. HE HAS  
ALSO TOLD ME TO GO TO THE  
MOSQUE IN DOMOKH CALLED  
"MASJID SABREEN" OR "MOSQUE  
OF THE PATIENT. HE ALSO  
STATED I WOULD BE GOOD TO  
HELP OUT THE "CAUSE" WITH  
MY "UNDERWORLD" CONNECTIONS  
AS FAR AS SELLING DRUGS  
TO FINANCE AL QADA AS WELL  
AS OBTAINING FAKE OR FORGED  
DOCUMENTS FOR OTHERS  
WHO ARE LAYING DORMANT  
UNTIL THE PROPER TIME  
TO "STRIKE". HE ALSO SAYS



(5)

THAT 9/11 (TWIN TOWERS) WAS REFERRING TO A PASSAGE OUT OF THE QURAN CHAPTER 9:111 WHICH TALKS ABOUT ISLAMIC JIHAD. HE ALSO REFERRED TO CHAPTER 8:12,15,16,19,24,30,50,74,75 CHAPTER 33:61 CHAPTER 47:4 AND CHAPTER 61:4,11,12. WHEN I ASKED WHY THESE CHAPTERS WERE SPECIAL HE STARTED TO READ THEM AND I NOTICED THEY WERE UNDERLINED. HE STATED ITS A MESSAGE FROM ALLAH. MR DELEON ALSO ASKED IF THE INFORMANT WERE TO BE "KILLED" WOULD HE BE ACQUITTED. HE REFERS TO THE INFORMANT AS "CANIRY". HE SAID "CANIRY" KNOWS ABOUT 200<sup>00</sup> DOLLARS HE SENT TO OMAR SOHIL IN PAKISTAN TO AID IN AL QUAIDA'S EFFORTS. HE SAID THEY WERE USING THE INFORMANT FOR ROOM AND BOARD AND AS A TAXI TO LAS VEGAS AND CHICAGO.

WHEN I ASKED MR DELEON WHAT WOULD HAPPEN



(6)

TO THE CHILDREN AND INNOCENT PEOPLE IN THIS "WAR", HE SAID THE CHILDREN WOULD GO TO HEAVEN WHILE ALL NON-BELIEVERS WILL GO TO "HELLFIRE". HE ALSO SAID HE AND HIS CO-CONSPIRATORS WERE HOPING TO DIE IN THE NAME OF ALLAH, AND THAT ALL NON BELIEVERS ARE SPEAKING BACK ABOUT THE PROPHET MOHAMMAD AND IN ISLAM ITS SAYS THEY SHOULD BE KILLED. HE SAYS IT WILL BE AN HONOR TO DIE IN THE NAME OF ALLAH LIKE THE MUJHADEEN AND JIHADIST WHOS CORPSE BARE SMILES BECAUSE THEYRE IN HEAVEN AND WHO SOULS WILL BE THROWN BACK INTO THEIR BODIES ON JUDGEMENT DAY TO GAURD "ALLAH" WITH AK47S.

I KNOW IM IN CARCERATED BUT I BELIEVE IN GOD AND KNOW THERE IS EVIL IN THIS WORLD NOW. I LOVE MY COUNTRY AND MY WHOLE FAMILY ARE AMERICANS



(7)

I DON'T MEAN TO CAST  
JUDGEMENT ON MUSLIMS BUT  
THIS ENCOUNTER HAS SHOWN  
ME THE VIOLENT, CULT LIKE  
VIEWS THE TERRORIZE OUR  
NATION AND WORLD. I FEEL  
IT'S RIGHT FOR ME TO  
REPORT THIS MATTER TO THE  
PROPER AUTHORITIES AND  
IF I CAN BE OF ANY MORE  
ASSISTANCE, FEEL FREE TO  
ASK. THANK YOU.

SINCERLY

[REDACTED]  
[REDACTED]